

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

ROY F. HILLBERRY, II,

Plaintiff,

v. CIVIL ACTION No. 2:22-00025

DONALD AMES,

Defendant.

O R D E R

The court having received the Proposed Findings and Recommendation of United States Magistrate Judge Cheryl A. Eifert, entered on May 10, 2022 (ECF No. 7); and the magistrate judge having recommended that the plaintiff's complaint be dismissed without prejudice for (1) failure to state a habeas claim, (2) failure to comply with a court order, and (3) failure to prosecute pursuant to Fed. R. Civ. P. 41 and L. R. Civ. P. 41.1; and no objection having been filed to the Proposed Findings and Recommendation,¹ it is ORDERED that the findings

¹ The court's docket reflects that the letter addressed to Hillberry containing Magistrate Judge Eifert's Proposed Findings and Recommendation was returned as undeliverable with a notation that the mail was refused by Hillberry. The court treats Hillberry's refusal to accept Magistrate Judge Eifert's Proposed Findings and Recommendation and subsequent failure to timely object in the same regard as any other failure to file

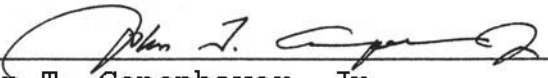
made in the Proposed Findings and Recommendation of the magistrate judge (ECF No. 7) be, and they hereby are, adopted by the court and incorporated herein.

Accordingly, it is further ORDERED that:

1. Plaintiff Roy F. Hillberry, II's complaint (ECF No. 1) be, and hereby it is, dismissed without prejudice; and
2. This civil action be, and hereby it is, removed from the docket of the court.

The Clerk is directed to forward copies of this memorandum opinion and order to all counsel of record, any unrepresented party, and United States Magistrate Judge Eifert.

ENTER: June 6, 2022



John T. Copenhagen, Jr.
Senior United States District Judge

objections. See Collins v. Oklahoma, 200 F. App'x 827, 828 (10th Cir. 2006).